IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7809 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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INDIAN AUTO INDUSTRIES - Petitioner(s)
Versus
GUJARAT INDUSTRIAL DEVELOPMENTCORPORATION & 1 - Respondent(s)

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Appearance :
MR BS PATEL for Petitioner(s) : 1,
MR YF MEHTA for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/12/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and/or direction, quashing and setting aside the letter at Annexure-D dtd.21/4/1994 and direct the respondents to hand over the possession of the Plot No.1109, 1110 and 111 to the petitioner forthwith.

2. It appears from the record that the aforesaid plots in question were allotted to the petitioner however, as the installments were not paid for he aforesaid plots, the proceedings came to be initiated and an order came to be passed under the provisions of the Gujarat Public Premises (Eviction of Unauthorised Occupants)

Act, 1972. It also appears from the record that even the possession of the aforesaid plots in question were taken by the GIDC in the year 1993 more particularly on 10/3/1993. Not only that it also appears from the record that those plots are allotted to other parties. However, no interim relief has been granted by this Court. Under the circumstances, some third parties are already in possession of the plots in question since 1993-94 and those persons are not party to the present petition. Under the circumstances, in absence of those persons, no order can be passed directing the respondents to hand over the possession of the plots in question to the petitioner. The petitioner has also not challenged the action / order under the provisions of the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, by which the possession of the aforesaid plots in question was taken over from the petitioner. In absence of any challenge also, the prayer sought for in the present petition cannot

be granted. Under the circumstances, there is no substance in the present petition and the petition is required to be dismissed.

3. However, so far as the recovery of the amount against the petitioner by the respondents is concerned, it will be open for the petitioner to move an appropriate representation to the respondent GIDC and in such event, the respondent may consider the same sympathetically in the facts and circumstances of the case.

4. With the aforesaid observations and directions, the present petition is dismissed. However, there shall be no order as to costs.

(M.R. SHAH,J.)